



U.S. Department of Justice

United States Attorney  
Southern District of New York

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86 Chambers Street  
New York, New York 10007

November 9, 2017

**BY ECF AND HAND DELIVERY**

The Honorable Valerie E. Caproni  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 240  
New York, NY 10007

Re: *Waterkeeper Alliance, Inc., et al. v. U.S. Environmental Protection Agency*, No. 17 Civ. 7400 (VEC) (AJP)

Dear Judge Caproni:

This Office represents Defendant United States Environmental Protection Agency (“EPA”) in the above-referenced case brought by Plaintiffs Waterkeeper Alliance, Inc., Sierra Club, Clean Water Action, and Environmental Integrity Project (collectively, “Plaintiffs”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. I write respectfully to provide an update to the Court and to Plaintiffs pursuant to the Court’s Order dated November 3, 2017. Docket No. 18.

With respect to the release of the “hard copy records” described in paragraphs 40 through 42 of the Complaint, EPA will produce them to Plaintiffs on or before November 22, 2017. However, since the initial pretrial conference on November 3, this Office has learned that EPA staff used the term “hard copy records” to refer to all records, including electronically-stored information (“ESI”), that are not emails or their attachments. The records that EPA will produce by November 22 are in fact non-email ESI.

Furthermore, following the November 3 conference, EPA also learned that it may not have collected all potentially responsive paper records and non-email ESI. EPA is presently working to determine whether there are any additional non-email records that need to be reviewed for responsiveness.

In light of the foregoing, EPA intends to file an amended answer within the time permitted by Rule 15(a)(1)(A), *i.e.*, on or before November 24.

Honorable Valerie E. Caproni  
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We thank the Court for its consideration of this letter.

Respectfully submitted,

JOON H. KIM  
Acting United States Attorney

By: s/ Anthony J. Sun  
ANTHONY J. SUN  
Assistant United States Attorney  
86 Chambers St., 3rd Floor  
New York, New York 10007  
(212) 637-2810

cc: (by ECF)  
Thomas J. Cmar, Esq.  
Mychal R. Ozaeta, Esq.  
*Counsel for Plaintiff*